IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 5 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

PRAFULBHAI M. PATEL

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

MR R.K PATEL WITH MR.B.D.KARIA for Applicant.

MR B.D.KARIA FOR MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 28/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the assessee, the following question has been referred to this Court for its opinion

by the Income-tax Appellate Tribunal, Ahmedabad, Bench "C" under the provisions of section 256(1) of the Income-tax Act,1961 (hereinafter referred to as 'the Act').

"1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the appellant was not entitled to claim interest of Rs.26,097/- u/s.37, 80V, 57 or Sec.67 of the I.T.Act,1961?"

2. We have heard learned Advocate Mr.R.K.Patel for the applicant-assessee and learned Advocate Mr.B.B.Nayak, for the Revenue.

3. Learned Advocates have fairly submitted that a similar question of law was referred to this Court at the instance of the assessee in I.T.R.No.3 of 1988 and this Court had answered the question referred to in I.T.R.No.3 of 1988 in the affirmative i.e. in favour of the Revenue and against the assessee.

4. In view of the fact that an identical question of law was answered in favour of the Revenue and against the assessee, we also answer the question referred to us in the affirmative i.e. in favour of the Revenue and against the assessee.

5. The Reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta,J)

m.m.bhatt